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SENATE BILL 246

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY  
John C. Ryan

AN ACT

RELATING TO HEALTH INSURANCE RATES; LIMITING THE INDEX RATE FOR  
CERTAIN HEALTH BENEFIT PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-23C-5 NMSA 1978 (being Laws 1991,  
Chapter 153, Section 5, as amended) is amended to read:

"59A-23C-5. RESTRICTIONS RELATING TO PREMIUM RATES.--

A. Premium rates for health benefit plans subject  
to the Small Group Rate and Renewability Act shall be subject  
to the following provisions:

(1) the index rate for a rating period for any  
class of business shall not exceed the index rate for any other  
class of business by more than ~~[twenty percent]~~ the following  
percentages for policies issued or delivered in the respective  
year:

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- 1                    (a) twenty percent through December 31,  
2                    2009;  
3                    (b) eighteen percent for calendar year  
4                    2010;  
5                    (c) sixteen percent for calendar year  
6                    2011;  
7                    (d) fourteen percent for calendar year  
8                    2012;  
9                    (e) twelve percent for calendar year  
10                  2013; and  
11                  (f) ten percent for every year  
12                  thereafter;

13                                    (2) for a class of business, the premium rates  
14 charged during a rating period to small employers with similar  
15 case characteristics for the same or similar coverage, or the  
16 rates that could be charged to those employers under the rating  
17 system for that class of business, shall not vary from the  
18 index rate by more than [~~twenty percent~~] the following  
19 percentages of the index rate for policies issued or delivered  
20 in the respective year:

- 21                    (a) twenty percent through December 31,  
22                    2009;  
23                    (b) eighteen percent for calendar year  
24                    2010;  
25                    (c) sixteen percent for calendar year

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1 2011;

2 (d) fourteen percent for calendar year

3 2012;

4 (e) twelve percent for calendar year

5 2013; and

6 (f) ten percent for every year

7 thereafter;

8 (3) the percentage increase in the premium  
9 rate charged to a small employer for a new rating period [~~may~~]  
10 shall not exceed the sum of the following:

11 (a) the percentage change in the new  
12 business premium rate measured from the first day of the prior  
13 rating period to the first day of the new rating period. In  
14 the case of a class of business for which the small employer  
15 carrier is not issuing new policies, the carrier shall use the  
16 percentage change in the base premium rate;

17 (b) an adjustment, not to exceed ten  
18 percent annually and adjusted pro rata for rating periods of  
19 less than one year due to the claim experience, health status  
20 or duration of coverage of the employees or dependents of the  
21 small employer as determined from the carrier's rate manual for  
22 the class of business; and

23 (c) any adjustment due to change in  
24 coverage or change in the case characteristics of the small  
25 employer as determined from the carrier's rate manual for the

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1 class of business; and

2 (4) in the case of health benefit plans issued  
3 prior to the effective date of the Small Group Rate and  
4 Renewability Act, a premium rate for a rating period may exceed  
5 the ranges described in Paragraph (1) or (2) of this subsection  
6 for a period of five years following the effective date of the  
7 Small Group Rate and Renewability Act. In that case, the  
8 percentage increase in the premium rate charged to a small  
9 employer in that class of business for a new rating period  
10 [~~may~~] shall not exceed the sum of the following:

11 (a) the percentage change in the new  
12 business premium rate measured from the first day of the prior  
13 rating period to the first day of the new rating period. In  
14 the case of a class of business for which the small employer  
15 carrier is not issuing new policies, the carrier shall use the  
16 percentage change in the base premium rate; and

17 (b) any adjustment due to change in  
18 coverage or change in the case characteristics of the small  
19 employer as determined from the carrier's rate manual for the  
20 class of business.

21 B. Nothing in this section is intended to affect  
22 the use by a small employer carrier of legitimate rating  
23 factors other than claim experience, health status or duration  
24 of coverage in the determination of premium rates. Small  
25 employer carriers shall apply rating factors, including case

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1 characteristics, consistently with respect to all small  
2 employers in a class of business.

3 C. A small employer carrier shall not involuntarily  
4 transfer a small employer into or out of a class of business.  
5 A small employer carrier shall not offer to transfer a small  
6 employer into or out of a class of business unless the offer is  
7 made to transfer all small employers in the class of business  
8 without regard to case characteristics, claim experience,  
9 health status or duration since issue.

10 D. Prior to usage and June 14, 1991, each carrier  
11 shall file with the superintendent the rate manuals and any  
12 updates thereto for each class of business. A rate filing fee  
13 is payable under Subsection U of Section 59A-6-1 NMSA 1978 for  
14 the filing of each update. The superintendent shall disapprove  
15 within sixty days of receipt of a complete filing or the filing  
16 is deemed approved. If the superintendent disapproves the form  
17 during the sixty-day review period, ~~he~~ the superintendent  
18 shall give the carrier written notice of the disapproval  
19 stating the reasons for disapproval. At any time, the  
20 superintendent, after a hearing, may disapprove a form or  
21 withdraw a previous approval. The superintendent's order after  
22 the hearing shall state the grounds for disapproval or  
23 withdrawal of a previous approval and the date not less than  
24 twenty days later when disapproval or withdrawal becomes  
25 effective."

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